

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven M. RUBEN

Appl. No.: 10/662,429

Filed: September 16, 2003

For: **Apoptosis Inducing Molecule I**

Confirmation No.: 2663

Art Unit: 1644

Examiner: HUYNH, PHUONG N.

Atty. Docket: 1488.1890003/EJH/SAC

**Supplementary Declaration of Elliot Olstein  
Ruben Exhibit #146**

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2003 SEP 16 16:00

Paper No. \_\_\_\_\_

Filed on Behalf of Party Ruben:

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**  
(Administrative Patent Judge Sally Gardner Lane)

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**STEVEN M. RUBEN**

Junior Party,  
(Application No. 08/816,981),

v.

**STEVEN R. WILEY  
and RAYMOND G. GOODWIN**

Senior Party,  
(Patent No. 5,763,223).

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**Patent Interference No. 105,077**

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**SUPPLEMENTARY DECLARATION OF ELLIOT OLSTEIN**

Ruben EXHIBIT 2146  
Ruben v. Wiley et al.  
Interference No. 105,077  
RX 2146

NYJD: 1533056.31

*M* *7/5/04*  
SUPPLEMENTARY DECLARATION OF ELLIOT OLSTEIN  
*Am 1*

*7/15/04*  
I, Elliot Olstein, declare and state as follows:

1. Since 1979, I have been a member of the law firm Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein ("Carella") of Roseland, New Jersey. During the time period encompassing 1995 and 1996, I was the partner-in-charge at Carella of Human Genome Sciences, Inc. (HGS), which was then a client of the firm. In the entire time I was partner-in-charge of HGS, I was responsible for overseeing, *inter alia*, the filing of more than one hundred patent applications in the U.S. Patent and Trademark Office on behalf of HGS. In the 1995 to 1996 time period, Mr. Charles J. Herron and Mr. Gregory D. Ferraro were associates at Carella who worked on HGS matters under my supervision.

2. During the 1995-1996 time period and within the scope of my responsibilities as partner-in-charge of HGS, I was personally aware of the routine business practices of Carella related to records kept by Carella that were generated as part of Carella's regularly-conducted business activities. Accordingly, I am very familiar with the routine business practices and procedures established and maintained by Carella with respect to records Carella kept in its normal course of business activity.

3. I have personally reviewed RE39, RE48, and RE50. Based upon my review of these exhibits, such exhibits are copies of records kept by Carella in the course of its regularly-conducted business activities, and that it was the regular practice of Carella to generate such a record. I can further attest that it was the normal business practice of Carella that such

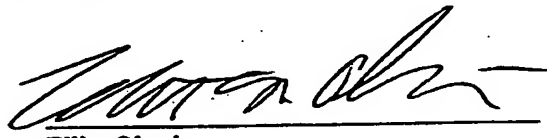
Interference No. 105,077  
Ruben v. Wiley *et al.*

records would be prepared at or near the time of the recorded activity by a person with knowledge thereof or by a person to whom that knowledge had been transmitted.

4. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-captioned application or any patent issuing thereon.

Date

7/15/04



Elliot Olstein

7/15/04